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U.S. Supreme Court Agrees to Hear Scholarship Case

OLYMPIA – The U.S. Supreme Court today announced it will review a Washington case that may determine if the state’s constitutional ban on the use of public money to fund religious instruction is allowed under the U.S. Constitution’s First Amendment.

The case was filed in 2000 by Kirkland divinity student Joshua Davey, who was ineligible for a state-funded Promise Scholarship because a Washington law passed in 1969 banned state financial aid to students pursuing divinity studies. A more broadly written provision of the state Constitution also prohibits the use of public money for religious instruction.

Davey claims the statute and constitutional provision violate various provisions of the federal Constitution, including the First Amendment’s guarantee of free exercise of religion. Washington contends the Free Exercise Clause does not require the state to underwrite religious instruction, and that it has done nothing to prevent Davey from exercising his religious rights.

The state asked the U.S. Supreme Court to review the case after a three-judge panel of the 9th U.S. Circuit Court of Appeals ruled 2-1 last July that Davey’s free-exercise rights had been violated. Defendants include Gov. Gary Locke and members and staff of the state Higher Education Coordinating Board, who oversee awards of state financial aid.

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While the First Amendment prohibits government from interfering with religious practice, the state argues that Washington's even more restrictive constitution does not violate the federal constitution.

Marc Gaspard, executive director of the Higher Education Coordinating Board, said the board will continue to abide by the 9th Circuit's decision unless the U.S. Supreme Court decides otherwise. The earlier ruling requires that the HECB not prohibit awards to students because they are pursuing theology degrees.

"We are pleased with the U.S. Supreme Court's decision to review this case," Gaspard said, "and we look forward to a resolution that will reconcile state law and our state Constitution with the U.S. Constitution. In the meantime, our state's financial aid programs are required to follow the decision issued by the 9th Circuit Court."

Arguments in the case, titled *Gov. Gary Locke, et al. v. Joshua Davey*, are expected to be heard by the Supreme Court in the fall.

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A background paper and other information on the *Davey* case are available by clicking [here](#).